UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

Case No. 05-44481

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In the Matter of:

DELPHI CORPORATION,

Debtor.

- -x

U.S. Bankruptcy Court

One Bowling Green

New York, New York

October 25, 2007

10:08 a.m.

B E F O R E:

HON. ROBERT D. DRAIN

U.S. BANKRUPTCY JUDGE

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P R O C E E D I N G S

THE COURT: Please be seated. Hi. Good morning. Delphi Corporation.

MR. BUTLER: Good morning, Your Honor. Jack Butler, Kayalyn Marafioti and Al Hogan here on behalf of Delphi Corporation along with Neil Berger, co-counsel, for the 23rd omnibus hearing in these Chapter 11 cases. Your Honor, we filed an agenda listing the fifty matters for consideration at today's hearing. We'd like to move in the agenda order.

THE COURT: That's fine.

MR. BUTLER: Thank you. Your Honor, the first item on the agenda is the Saganaw Chassis asset sale motion filed at docket number 9368. There have been some limited objections filed. Your Honor will recall from prior hearings that the Asset Purchase Agreement in this particular transaction has a closing condition at Section 9180 which requires that TRW Integrated Chassis Systems, LLC, as purchaser, is to enter into a supply agreement with General Motors. That originally was to occur by the close of business on September 26, 2007. Those matters are still under discussion between General Motors and TRW.

The debtors, at least at this time, are not prepared to move forward with this transaction until we understand that TRW and General Motors have agreed finally to the terms of that transaction. And, therefore, we'd ask to move this matter to

the November 16th omnibus hearing.

THE COURT: Okay. And as I remember, the union objection was no longer --

MR. BUTLER: Correct. We resolved that objection.

THE COURT: Right. Okay.

MR. BUTLER: So the only real --

THE COURT: The only issue is the negotiation between TRW and GM?

MR. BUTLER: That's correct, Your Honor.

THE COURT: Okay.

MR. BUTLER: Your Honor, the next matter on the agenda is the Verizon administrative expense motion, and Mr. Berger is handling that for the debtors.

MR. BERGER: Good morning, Judge.

THE COURT: Good morning.

MR. BERGER: Your Honor entered an order authorizing the sale of the debtor's mobile area business unit previously. Leading up to that sale there was a cure dispute between Mobile Area and Verizon Services, Corp. concerning a GPS system and services agreement between the parties. Your Honor's sale order had a specific provision that preserved the right of Verizon to assert the cure plans as administrative expense claims, and that's what this motion is about.

I spoke with counsel for Verizon. Our business people are gearing up to try to work together. We've agreed,

subject to Your Honor's consent, to adjourn this to the November 29 omnibus hearing date. As part of the agreement to adjourn that, we did, as the debtors, agree to file our response by November 14th so there would be sufficient time for Verizon to respond as well. So, subject to Your Honor's consent, this matter will be moved to November 29.

THE COURT: All right. That's fine.

MR. BUTLER: Your Honor, matter number 3 on the agenda is the Technology Properties 1318 motion filed at docket number 10425. Your Honor, the way we would like to handle this procedurally is to adjourn this to the November 16th hearing for status only. If in fact Your Honor grants the solicitation procedures motion on November 8th and establishes a 3018 hearing date for 3018 motions, then at the November 16th hearing this would be moved to that date with all the other 3018 matters that may come before the Court.

THE COURT: Okay.

MR. BUTLER: Thank you. Your Honor, the next matter on the agenda is matter number 4, the recently filed motion filed at docket number 10449. This is the motion of Scott Darrell Reiss (ph.) to allow payment of a claim and for other relief. The debtors have filed an objection at docket number 10647. And the parties, prior to today's hearing, agreed to move this to the claims track and have this heard at the October 26th claims hearing.

THE COURT: Okay.

MR. BUTLER: Thank you, Your Honor. Your Honor, the next matter on the agenda is matter number 5. This is the Valeo settlement motion at docket number 10482. This involves, Your Honor, the resolution of a pre-petition cause of action from the debtor against a supplier in connection with some warrantee and other claims arising from the supply of multifunction electrical switches to DAS, LLC, which was then used in steering column assemblies sold to customers.

I'm pleased to report, Your Honor, this matter has been resolved by the payment of four million dollars by Valeo to DAS, LLC to resolve these issues. The important aspects of this particular transaction is that obviously the settlement agreement needs to be approved by Your Honor; that's a requirement by Valeo, and that the order become final and nonappealable. They would make the payment to us. We would grant releases to Valeo, and certain related persons and entities, from further liability with respect to the switches that are involved.

We would also represent to Valeo that DAS, LLC is the sole owner of those claims and we'd indemnify Valeo from any other claims that would come at them from some other party if it was later determined that was not the case. That's the sum and substance of the proposal, Your Honor. Valeo, I should point out, continues to be a valuable supplier to the debtors.

And Mr. Sheehan, our chief restructuring officer, is here and, Your Honor, could provide a proffer if you'd like, under 9019 as to why this is in the interest of the estate. But this matter has been reviewed with our statutory committees and there are no objections.

THE COURT: All right. Well, it seemed to me to be a fairly complicated contract dispute involving many elements of the party's business. And, frankly, I'm going to rely largely on the committee's review as well as the debtor's heavy involvement in the process in the first instance. Clearly the settlement ends up in a net payment to the debtor, so I will approve it.

MR. BUTLER: Thank you, Your Honor. Your Honor, the next matter on the agenda, matter number 6, is the second IRS pension funding waiver motion of the debtors at docket number 10483. Your Honor, this is an important matter for the debtors. This completes the work that needed to be done with respect to the fifth element of the five point transformation plan the debtors announced back in March of 2006.

As you know, since the outset of these Chapter 11 cases, the debtors have been searching for ways to preserve their pension programs, albeit frozen upon emergence but going forward, and that's been something we've been working very hard to do. That required government relief. And we have been working very closely with the PBGC and with the IRS in

addressing these matters. And I'm very pleased to be able to present this motion to you, which is uncontested, regarding the second and we hope final, set of waivers from the IRS with respect to the pension matters that we need relief on.

This particular waiver will, most importantly, address the temporary waiver of minimum funding obligations involving our hourly plan for the plan year ending September 30, 2007, and will, in conjunction with other opinions issued to us by the IRS, facilitate the provision in our plan of reorganization that would allow us to transfer certain hourly pension obligations to General Motors under the GM settlement agreements, pursuant to Section 414(l) of the Internal Revenue Code, in exchange for the financing transaction set forth in the GM settlement documentation.

That transaction, which is an important element of our overall settlement with General Motors and an important element of our pension preservation plan, is only able to be accomplished if it's economically efficient. And without trying to hold myself out as a pension expert here, the reality is, having been involved in these discussions, there are some -- when you look at the regulations and the requirements, we in fact could have been in a position, without this waiver, of trying to effectuate that transfer but still be responsible for making payments in connection with the September 30, 2007 year, including related to the significant portion of

transferred liabilities under the hourly plan. That would have made that entire transaction not economically attractive to the debtors or to their reorganization. And so being able to work out these waivers is extremely important to our overall transformation objectives.

The second waiver includes a series of terms, including a time line by which we must complete the reorganization. We're well on our way in connection with the Chapter 11 plan that they require to be filed by the end of this year, and we've already filed. They have required that we satisfy any minimum funding requirements for the plan ending September 30, 2007, within five days following the effective date of a plan. That has to occur. That is, the effective date has to occur no later than February 29, 2008 in order for us not to have to go back and renegotiate these waivers. And there is a requirement that we contribute twenty million dollars to the hourly plan within five days following the effective date, in addition to other payments, in addition to the twenty million in accelerated contributions that we agreed to under the first waivers.

Your Honor may also recall, in connection with the first waivers the Court approved, that we provided the PBGC a right to hold a hundred million dollar letter of credit that was drawable under certain conditions. There's nothing in these waivers that would affect the PBGC's rights in those

respects with respect to the first waivers.

THE COURT: And you're not adding any additional LC?

MR. BUTLER: We are not, Your Honor. Your Honor, given the importance of this, I would like to just briefly introduce into the evidentiary record seven exhibits which have been provided to the Court. These would include, Exhibit 1 is the letter dated September 28, 2007 that grants the second pension funding waiver. Exhibit 2 is the letter dated October 4th which grants Delphi's request for modification of the conditional waiver of minimum funding standard for the hourly plan for September 30, 2006 for that particular year. Exhibit 3 is another letter of the same date, October 4, granting also a Delphi request for modification for the salary plan for the plan year ending September 30, 2006. Exhibit 4 is a letter dated July 13, 2007 which granted Delphi's waiver for a modification of conditional waivers relating to the hourly plan. And Exhibit 5 is another letter dated July 13, 2007 -- these are all from the Internal Revenue Service Your Honor -- granting a request for a modification of the conditional waiver for the salary plan. There's also a declaration of Mr. Sheehan, I explained the business purposes of these transactions for the debtors, at Exhibit 6 and then the notice of service and the affidavits, Exhibit 7, Your Honor. I'd like to move those exhibits into evidence in this hearing.

THE COURT: Okay. Does anyone have any objection to

the admission of those exhibits? Does anyone want to cross-examine Mr. Sheehan? All right. I will admit the exhibits.
(IRS letter dated 9/28/07 granting the second pension funding waiver was hereby received as Debtor's Exhibit 1 for identification, as of this date.)
(IRS letter dated October 4th granting Delphi's request for modification of the conditional waiver of minimum funding standard for the hourly plan for 9/30/06. was hereby received as Debtor's Exhibit 2 for identification, as of this date.)
(IRS letter dated October 4th granting Delphi's request for modification for the salary plan for the plan year ending 9/30/06 was hereby received as Debtor's Exhibit 3 for identification, as of this date.)
(IRS letter dated 7/13/07 granting Delphi's request for a modification of conditional waivers relating to the hourly plan was hereby received as Debtor's Exhibit 4 for identification, as of this date.)
(IRS letter dated 7/13/07 granting a request for a modification of the conditional waiver for the salary plan was hereby received as Debtor's Exhibit 5 for identification, as of this date.)
(Declaration of Mr. Sheehan was hereby received as Debtor's Exhibit 6 for identification, as of this date.)
(Notice of service and the affidavits was hereby received as Debtor's Exhibit 7 for identification, as of this date.)

THE COURT: I had a couple of questions related to this. First, are the debtors reasonably confident that they will be able to meet the deadline for this particular waiver, the February deadline?

MR. BUTLER: Your Honor, we certainly hope to be able to do that. We filed an 8-K last week, indicating that the company plans to emerge during the first quarter of 2008. We have a timetable. Your Honor may recall that in connection with the disclosure settlement, the timetable, not later than November 7th the debtors are required to file publicly a schedule, a modified schedule, of how the timetable would work and what the plan emergence date is.

Your Honor has indicated that assuming we're able to go forward with the November 8th disclosure statement hearing, that there would be a disclosure or a confirmation hearing in the second week of January of 2008. That should allow us to emerge, even conducting rights offerings, by the end of February. That, like everything else in these matters, there are many, many stakeholders with many disparate interests and as we try to sort through all those matters, we may or may not have a seriously contested confirmation hearing in process. And we'll have to sort through all of that. We continue to try to work on those matters.

But the debtors certainly anticipate before the February 29th date if we can. We've set publicly the first

quarter, because we don't want to hold ourselves to specific dates. But we are mindful and we have reminded our stakeholders that in addition to the macroeconomic risks that exist in the capital markets and elsewhere, there are a series of event risks that we need to manage in the first quarter of 2008. And we're mindful of those. We're working hard to do them, and I would say that we have made very substantial progress along those lines.

THE COURT: Okay. And I guess implicit in that answer is that the debtors are reasonably comfortable that they'll also be able to meet the funding condition set forth in the waiver?

MR. BUTLER: Yes, Your Honor. I believe the plan of reorganization that we filed on September 6th, including any modifications that the debtors plan to file later this month, will in fact -- I think the company believes that if that plan is confirmed and we go effective on that plan, we will be able to meet the conditions set forth in the waivers.

THE COURT: Okay. And then my last question, and I believe you gave me the answer to this in connection with the first waiver, but let me ask it anyway. What is the basis for the twenty million dollar, ten million, ten million, twenty million dollar amount?

MR. BUTLER: The short answer, Your Honor, it's the product of a negotiation between the government and the company

and consideration of the government in granting these waivers. So the government isn't, as you know, obliged to grant these. And the government believed that providing some accelerated funding into these programs was appropriate.

THE COURT: On the other hand, the cost of not getting the waiver would have exceeded that amount in terms of --

MR. BUTLER: Yes, Mr. Sheehan's declaration indicates the inability, for example, to have gotten the second pension funding where it is before the Court now would have essentially made a billion-five transaction, which is one of the major elements of our fabric of the reorganization settlement, not economically efficient.

THE COURT: Okay. All right. Does anyone have anything to say on this motion? All right. I will approve it for the reasons stated in the motion and on the record.

MR. BUTLER: Thank you, Your Honor. Your Honor, the next matter before the Court, matter number 7 is the Interiors and Closures business' sale motion filed at docket number 10606. Your Honor, this agreement contemplates a global divestiture of the company's cockpits and interior systems business and its integrative closure systems business to the proposed purchasers for consideration in the amount of approximately of 106 million dollars. This is comprised of a preliminary purchase price of approximately 80 million dollars,

subject to certain adjustments, and a post closing set of payments, series of payments, or earnout as I would call them, of approximately 26 million dollars. This proposed sale is subject to approval by this Court and additional competitive bidding pursuant to the proposed bidding procedures. Those bidding procedures are the primary subject of the hearing today, as well as the bid protections for the purchasers.

The proposed purchaser is Inteva Products LLC, which is a wholly owned entity of the Renco Group, Inc. Your Honor, if the Court approves these bidding procedures, which are substantially similar to procedures we've used for other divestitures in this case where we've employed a two-step process. We would in fact have a bid deadline of November 26, 2007. There would be an auction on or about December 6, 2007, and the sale hearing would occur at the December omnibus hearing, which is presently scheduled for December 20, 2007.

There are bid protections proposed in this order to be approved by Your Honor, if Your Honor is prepared to move forward with this two-step approach which would provide the purchaser with a break-up fee protection which consists of the lesser of 2.4 million, which is calculated at three percent of the preliminary purchase price, or 2.3 percent of the total purchase price if you use the earnout, if you count the earnout, or three percent of the post termination alternative transaction purchase price. That would be the price that we

obtain from someone else within twelve months. The lesser of those two amounts would be payable to the purchasers and it would be payable only in the event that the seller debtor entities consummated an alternative transaction within twelve months after the termination of the agreement.

There's also an expense reimbursement provision which is two-tenths of a percent of the purchase price, or 250 thousand dollars. And as the motion indicates, there's a series of other conditions that might occur, ranging from the timing of closing, approval of sale orders, and other events under the agreement that would give rise to the payment of that expense reimbursement.

I would characterize the payment of that expense reimbursement as more likely than not or more probable than not in terms of as you work through it, in the sense that the passage of time could in fact, in and of itself, cause the expense reimbursement provision to be paid.

I would also point out to Your Honor that with respect to this matter we received comments from both the creditors' committee and from the UAW. In the case of the committee, the committee asked us to lower the bid increments to 500 thousand dollars from one million, which has been accommodated in the revised order.

And the UAW requested a modification to Section 6.6 of the agreement, which -- or I should say 6.6 of the agreement

notice, which required -- deals with -- and I'll just read the language in the record. It states now "qualified bidders should note that Section 6.6 of the agreement addresses, among other things, the terms and conditions of employment of UAW represented employees. And these issues remain subject to the party's rights and obligations related to bargaining with the UAW." And that, of course, comes in part, Your Honor, from the labor MOUs approval order in this Court, which is a final order of this Court.

Those are the only changes, Your Honor, to the package as it was originally filed before the Court. In terms of the -- given the size of this, this is probably the second largest of the transactions, the various non-core divestitures, Your Honor, that we'll bring to you as part of the third tenant of our transformation plan, again, announced back in March of 2006, which said that we would identify core, non-core assets and we would divest those non-core assets. Those divestitures have in every case required cooperation from our unions and from General Motors, who is the primary customer for those plants and those businesses here in North America. And this one is the second largest.

We have a series of exhibits in connection with this matter we've provided the Court. There are just six of them. Exhibit 1 is the agreement, Exhibit 2 through 4 are the motions, form of orders and the black lines. There is a

declaration from Mr. Sheehan to support this because this is an expedited motion at Exhibit 5. And Exhibit 6 is the affidavit of service involving the service of these matters in accordance with the case management order. Your Honor, I'd move into evidence exhibits 1 through 6.

THE COURT: Okay. Does anyone have any objection to the admission of those exhibits? Does anyone wish to cross-examine Mr. Sheehan on his declaration? Okay. I will approve the admission of the exhibits.

(Agreement was hereby received as Debtor's Exhibit 1 for identification, as of this date.)

(Motions, form of orders and black lines was hereby received as Debtor's Exhibits 2 - 4 for identification, as of this date.)

(Declaration from Mr. Sheehan was hereby received as Debtor's Exhibit 5 for identification, as of this date.)

(Affidavit of service was hereby received as Debtor's Exhibit 6 for identification, as of this date.)

MR. BUTLER: Thank you.

THE COURT: Does anyone have anything to say on the motion? All right. I will grant the relief sought today pursuant to the motion, which is approval of the bidding procedures and the break-up fee and expense reimbursement provisions as well as the notice provisions. I'm comfortable with the formulation of the break-up fee. The expense reimbursement could conceivably be viewed as simply a reduction

to the purchase price. But the motion makes it clear that the sale has already been extensively marketed and that the debtors believe this is the best, at least the best stalking horse. So I'm quite comfortable approving the relief sought today.

MR. BUTLER: Thank you, Your Honor. Your Honor, the next matter is matter number 8 on the agenda. This is another divestiture related motion. It's the steering entity's formation motion. It's found at docket number 10608, and it involves procedural steps that we need to take from a corporate planning perspective in connection with the disposition of our largest non-core business. And it's really important, I think, in connection with the steering business, when we talk about the steering business, and we'll talk about it more in the coming days and weeks.

The steering business is a nonstrategic business for the company going forward. But it's a very large, very important business in terms of its global reach. It is a company that we think is important to market and move forward with as a going concern. It, we think, has significant value to our customers and to our unions. There are many thousands of people employed there, principally by the UAW, but also by others, and we have worked very, very hard to sort out an appropriate disposition of the steering business, and we expect to come to the Court before the end of the year with a transaction in dealing with that.

In preparing for that transaction, there are many, many things that we need to do, given the global nature of the steering business, in terms of various platforms we have to deal with and various countries we have to deal with.

This particular motion deals with asking for authority to establish two new U.S. entities which would not be debtors, in order to have them hold an interest in a Mexican entity, which in turn would hold permits and licenses required in Mexico in order to be able to operate that business in Mexico. One of them, most importantly, is an explosives permit. That transaction under Mexican law requires that there be at least two shareholders in connection with that particular transaction. And, therefore, we have sorted out an appropriate structuring transaction to do that.

That's the purpose of this motion. We have reviewed this with our statutory committees. The creditors' committee, in particular, has taken a considerable amount of time -- and when I say considerable amount of time I should probably say a considerable amount of effort, because this has been done in a short period of time -- to examine this and examine the background behind it, and I believe counsel wishes to comment on this particular motion.

We are grateful to the committee that they are supportive of this and that they are prepared to have this motion go forward. It is, of course, subject to their

reservation of rights to challenge how proceeds might be allocated down the line when the sale occurs. They're not agreeing that because we needed to go through and establish these particular companies that that somehow is dispositive from an allocation of proceeds matter when that final agreement comes to the Court. But I think they recognize, having completed the due diligence, as the debtors do, that this is an important step in terms of preparing the company for sale. So, Your Honor, with that in mind, are there any comments, Mr. Broude, you'd like to make in connection with the motion?

MR. BROUDE: Your Honor, Mike Broude, Latham & Watkins on behalf of the committee. Mr. Butler is correct. We spent a lot of time looking at this from both a structural and economic perspective. And our only issue is just making sure that since the steering business in Mexico is currently owned by Delphi Automotive Systems (Holding), Inc., or DASHI, and these two new companies may or may not be owned by DASHI, that that not affect this sort of transfer or movement of value from one place to another. We'll, you know, look at that in the context of any actual transaction. But I just wanted to make sure that that reservation of rights was clear.

THE COURT: Okay. And these are truly supposed to be holding companies, right?

MR. BROUDE: Yeah.

THE COURT: This is their sole function, really is to

own this stock?

MR. BROUDE: That's correct, Your Honor.

THE COURT: And how are you going to, practically speaking, reserve the rights as to allocation?

MR. BROUDE: Well, there will be a motion at some point filed before the Court seeking to approve a transaction, as has been the case with prior transactions where there have been both debtor and nondebtor sellers. Part of that motion, part of the acquisition agreement will involve an allocation of proceeds across debtors and nondebtors and, you know, across particular sellers. In that context we'll review that to make sure that there isn't any inordinate amount of value being allocated to the permit that this entity holds.

MR. BUTLER: And, Your Honor, the debtors have agreed we're not going to use this motion, if Your Honor grants this motion, as dispositive in any way to that allocation discussion that we would have with the committee, as we've had with them on every transaction we've brought --

THE COURT: Notwithstanding the potential ownership now of the stock in someone else's --

MR. BUTLER: Correct, Your Honor.

THE COURT: -- bailiwick. Okay. Okay.

MR. BUTLER: This is being done -- without being able to move forward with this transaction, we would seriously impair the value that could be --

THE COURT: Right.

MR. BUTLER: -- from this transaction. So --

THE COURT: Okay. All right. Well, the rational for the relief sought is clear and beneficial to the debtor, so I'll approve the motion, having noted the reservations of rights that have been confirmed on the record.

MR. BUTLER: Thank you, Your Honor. Your Honor, the next matter on the agenda is matter number 9. This is the MDL and Insurance settlement approval motion at docket number 9296. There are two objections that have been filed by the Goodwin Procter firm on behalf of a group of bondholders, one at docket number 10687, the other at docket number 10689. The debtors have filed yesterday, in accordance with the case management, our reply to that matter.

This particular motion before the Court today, or the relief we're seeking before the Court today, has changed from the time that we originally filed the MDL and insurance settlement approval motion. We have spent a great deal of time over the last number of weeks consulting with the official committee of unsecured creditors, our creditors' committee, the security's lead plaintiffs, the ERISA named plaintiffs, and a series of other ad hoc committees and advisors. We've also discussed the form of order with the equity committee in terms of the equity committee's rights being preserved, and I'll address that in a few minutes.

And we have, in reviewing those matters and trying to sort out our time table, we have concluded as the company, that we would ask the Court to consider a bifurcated approval process here, pretty much in the same way the district court has dealt with the bifurcated approval process of this matter in the district court.

As Your Honor may recall back on September 5th, the district court gave preliminary approval to the MDL motions there and set final approval hearings for mid-November of this year, which were the fairness hearings and the right for people to object to the merits of the proposed settlements.

In the preliminary approval order heard in the district court, the district court, among other things, certified classes and granted a series of other relief, approved notices, and set forth all the procedural mechanics, if you will, of moving that motion forward.

We believe that it is appropriate to do the same thing in this Court at this time and, therefore, similar to the bifurcated process that was utilized by Judge Rosen, which preliminarily approved the security stipulation and the ERISA stipulation back on September 5th, we would ask the Court today, this Court, to preliminarily approve this motion at this stage only under two circumstances. First, that Your Honor determines that the relief we seek in this preliminary order should be granted at this time. And that relief, I'll go

through, is, I believe, procedural in nature but important to the company. It deals with certifying classes. It deals with who we need to solicit going forward. It addresses who can vote in connection with the plan as it relates to this particular -- the MDL plaintiffs. We think it's quite important to get that established now and grant the other relief that's set forth in the motion.

And we also think, just as Judge Rosen dealt with in the district court, that the relief sought in the motion, that by preliminarily approving this, you should only do it if Your Honor believes that the relief sought in the motion was capable of final approval at the confirmation hearing on the debtor's plan of reorganization, but subject in all respects to the Court's consideration of any objections filed by the potential objectors, whose rights are fully preserved under paragraph 13 of the preliminary order.

Paragraph 13 of the preliminary order has been carefully negotiated with all of the potential objectors and there is only one set of potential objectors, that is the group or committee, as we believe they are operating, represented by Goodwin Procter, who continues to press an objection, and we'll deal with that during this contested hearing.

We think it is noteworthy that none of the other potential objectors, that is neither of the statutory committees, the U.S. Department of Labor, Wilmington Trust

Company as indenture trustee, or the ad hoc committee of trade creditors, share the ad hoc bondholder committee's views on this preliminary order, and we believe are satisfied with the preliminary order in the form submitted to the Court for consideration.

I should note, Your Honor, in connection with the equity committee, who may have arguably waived their right to object to this, in discussions with the equity committee following up from the colloquy we had on the record last time when this matter was before the Court, the company decided that it was appropriate, particularly given this bifurcation approach, for the equity committee, as one of our official statutory committees, have the right and all of the privileges of a potential objector. And this order provides that they'll be deemed a potential objector and they will have all of those rights reserved to them at the confirmation hearing to object to the merits of this, in the same way all of the other potential objectors were. And this order specifically provides for those rights.

THE COURT: Okay. That's good.

MR. BUTLER: Your Honor, in terms of the actual relief, we provided a draft order to the Court. I can walk through it, but I think it's pretty clear what we're seeking in the particular matter. And maybe the appropriate thing to do now would be to cede the podium to Mr. Brilliant and let him

press his objections, and then we'd be able to respond to them and walk through the order.

THE COURT: Well, there was one point, one question I had to you on the proposed order. And I think it's probably worth going through that now.

MR. BUTLER: Sure.

THE COURT: I had a couple other comments on it too. But if you turn to page 5, paragraph J. This is the paragraph that basically recites what you intend to do as far as the seeking final approval of the settlements. And the question I had is, and it's a little vague right now, it says "The debtor has further stated that with the concurrence of the security's lead plaintiffs and the ERISA named plaintiffs, the debtors will seek final approval of the settlements contemplated by the security stipulation, the ERISA stipulation and the insurance stipulation." And I assume the final approval is in respect of the other objectors --

MR. BUTLER: Right.

THE COURT: -- the people's whose rights have been preserved --

MR. BUTLER: Correct.

THE COURT: -- as part of the debtor's plan of reorganization, and in the confirmation order. And my question is is that what you really mean -- or do you really mean to say at the same time that they seek confirmation of the plan and

that such approval, if granted, would be incorporated in the confirmation order? And the reason I ask that is that some settlements, like the GM settlement, are literally part of the plan. Other settlements, sort of stand on their own; they only make sense in the context of a plan. But I had viewed this settlement as one that falls into the latter category i.e. it stands on its own merits. People aren't voting on it, in essence, but it only makes sense in the context of a plan that contemplates it. But I don't know what the parties had in mind on that point.

MR. BUTLER: Well, I think from the debtor's perspective, if you go back and look at our September 6th plan, the plan in fact includes the MDL settlements as a dependency to the plan, just like it does with the GM settlement and the labor settlements. It does incorporate them into the plan and in fact the treatment of those stakeholders is built into the treatment section, and people vote on that.

I know, and Mr. Broude may have his own views and want to express this, but I know in my conversations with his colleague, with Mr. Rosenberg, that one of the things that was important, that that committee has expressed to us, is that the committee wanted this taken up at the confirmation hearing in the context of the votes being in on the plan.

THE COURT: I understand that, and I understand that that's the whole purpose of this two-step process is that it

gives everyone a chance to put it in a context. But at the same time, particularly since you had previously noticed this for approval --

MR. BUTLER: Right.

THE COURT: -- and in this motion, those who didn't object, you're seeking to, in essence, well not in essence, you're seeking to bar from objecting.

MR. BUTLER: Absolutely.

THE COURT: If it's part of a plan, I'm not sure how far that bar goes, because they could still object to the plan. On the other hand, if it's in the context of a plan, their rights are only to object to the plan, but as far as the settlement is concerned, they can't object to that settlement. Of course, the objectors, the preserved objectors, can do both.

MR. BUTLER: Right. I think we viewed that as being the process, Your Honor, that in fact the only people that can object to the MDL are those people who reserved their rights to do it. And we also wanted to make clear that people who wanted to object to the plan itself, that this order wasn't precluding them from objecting --

THE COURT: Right, but it --

MR. BUTLER: -- to the plan, no matter who they were.

THE COURT: But if this is part of the plan, I'm not sure how you can bar people from objecting to the settlement without barring them from objecting to the plan. I don't think

that's what you intended to do.

MR. BUTLER: No. I'm certainly comfortable with the formulation, Your Honor, the Court suggested. What we were really trying to achieve here, frankly, in these discussions, was to achieve a result the creditors' committee wanted us to, which was they wanted to be able to address this at the confirmation hearing and have the results of that hearing incorporated into the confirmation order. I think I have that right, Mr. Broude, right?

MR. BROUDE: Yes, Your Honor. I think you do. And part of the problem is we don't -- the creditors' committee, we don't think that you can object to or evaluate the settlement in a vacuum. It has to be in the context of a particular plan.

THE COURT: I understand that.

MR. BROUDE: And to -- you almost have sort of a chicken and an egg problem if you're seeking to have the settlement approved except in the context of confirming particular plans --

THE COURT: Well, let me read you the language again.

MR. BROUDE: Sure.

THE COURT: Because I think it's consistent with that, which is that I would put in, instead of "as part of" I'd say "at the same time that they seek confirmation of the plan of reorganization and that such approval, if granted, would be incorporated in the confirmation order." So it does all happen

at the same time. But I think it's more than just an angels on the head of a pin difference in that as far as the people who haven't objected --

MR. BROUDE: Your Honor, I am certainly not opposed to whatever the debtors need to do to make sure that those who have not objected, or are not in the potential objector group, are not permitted to object to that element of the plan. I think we may, to a certain extent, have a metaphysical issue here as opposed to a substantive one.

THE COURT: Okay.

MS. STEINGART: Good morning. Bonnie Steingart from Fried, Frank on behalf of the equity committee. I think it's slightly more than a metaphysical issue. Part of the settlement to the MDL include payments from the debtor's estate. And because of that, the propriety of those distributions are an integral part of the debtor's plan. So there are amounts for which the debtor takes the position that it's not part of the estate, others part of the estate. And because of that I'm not sure the debtors can cut off rights to object as the plan changes. But that's a different issue and that's an issue that the Court and the debtors will deal with as people may object. But the settlement itself can have no vitality and really cannot be approved in terms of involving the debtor's assets outside of the plan.

THE COURT: Well, it's to be embodied in a plan. I

understand that. But in terms of the process for evaluating it, I think you can do it either way. And quite properly, I think the debtor has agreed to let those who wanted to preserve their rights do that.

MR. BUTLER: And, Your Honor, in response to Ms. Steingart, she and, I think, probably don't agree on this point. I think the debtors have chosen not to press this point at this time.

THE COURT: And it may never be pressed.

MR. BUTLER: Right.

MS. STEINGART: Right.

MR. BUTLER: The debtors actually believe this can be --

MS. STEINGART: That's what we're hoping.

MR. BUTLER: -- approved outside of a plan. Our view was that we don't, you know -- we have tried in this case not to ask this Court to make rulings or decisions on things that don't matter.

THE COURT: All right.

MR. BUTLER: And, ultimately, if that issue doesn't matter at the point, in part because we spent time negotiating with the ERISA plaintiffs and the MDL plaintiffs who were prepared to amend their settlement agreement in the district court to allow us to bifurcate, which was a concession from the agreements and the requirements set forth. Without that, we

would be in a different position here. And I should point out that there was an extensive discussion with them and they considered it with their clients and agreed to this bifurcation, which is essentially putting them through four hearings in two courts --

THE COURT: Right.

MR. BUTLER: -- as opposed to it. But I think they understood and I give the creditors' committee credit for this, I think there was a wisdom in the committee's approach to this. And I thought it was thoughtful. We told the plaintiffs that. I think they concurred with that. And so what you have before you is the product of that. And we're certainly comfortable, Your Honor, with the modified language that the Court's proposing.

THE COURT: Okay. All right. So why don't I hear then from Mr. Brilliant?

MR. BUTLER: So I think Mr. Brilliant is up next, Your Honor.

THE COURT: Okay.

MR. BRILLIANT: Good morning, Your Honor. Allan Brilliant on behalf of Castlerigg Master Investments Ltd., CR Intrinsic Investors, LLC, Davidson Kempner Capital Management LLC, Elliot Associates, L.P. and SPCP Group LLC. Your Honor, as a preliminary matter, you know, the debtors, you know, say that we're a committee. You know, we obviously

dispute that. The debtors have indicated that they're going to file a motion under 2019. When they file that, we'll respond to it. Your Honor presumably will rule on it. But we both agree that it's not subject to a decision today. And all we say on that point at this point is that just as the debtors reserve all their rights with respect to the issue, we do so as well.

The motion that has been filed, Your Honor, in connection with the MDL settlement, seeks extraordinary relief. It seeks to elevate claims that are statutorily subordinate, pursuant to the Bankruptcy Code under Section 510(b), to being general unsecured claims.

The relief requested is expressly contrary to binding authority in the Second Circuit in the Iridium case which, you know, states that whether or not a settlement is fair and equitable is the most important factor in determining, under Rule 9019, whether or not a settlement should be approved. And the Court found that specific credible grounds to justify the deviation from absolute priority needs to be provided in order to justify a court approving such a settlement.

Here in their motion the debtors do not provide such specific credible, you know, grounds in order to justify a deviation. At this point in time, whether pursuant to a plan that may or may not be confirmed by Your Honor, or just generally under Rule 9019, why should creditors who are

statutorily subordinate be treated as general unsecured creditors for purposes of distribution under a plan of reorganization because the relief that they seek, you know, doesn't meet the standards set out by the Second Circuit in the Iridium case? We don't believe that the Court should enter any order with respect to the motion until a final hearing, whether it be on an interim basis or as they call it, a preliminary approval, or on a final basis, until the debtors have established that relief, you know, is in fact, you know, justified.

In addition, Your Honor, you know, we believe that the hearing today is still premature. Effectively, what the debtors say -- and we'll go through the order, because I believe that what they're seeking pursuant to the order, you know, is very different than what they say in their papers. But what they're seeking today is premature. We have a plan that's on file. They've said they're going to modify it on Monday. There's going to be a hearing on November 8th in connection with approval of a settlement statement. And, effectively, at this point among other things -- and it's the among other things that are most troubling to my clients -- but among other things, they're seeking at this point under Rule 3018(a), presumably -- they don't say in their order, but presumably under 3018(a) -- to have the claims authorized for purposes of voting of these class action plaintiffs as general

unsecured claims pursuant to a plan of reorganization that is not currently on file. They have a plan on file, but they have acknowledged many times it's going to be amended. And we have no idea at this point whether it's going to be amended with respect to, you know, treatment of the MDL or other classes. We understand --

THE COURT: Well, it wouldn't be amended as to the treatment of the MDL, because they could only vote pursuant to the terms of the settlement which incorporates the settlement into any plan. They're not, under this order, allowed to vote on anything other than a plan that has a settlement in it.

MR. BRILLIANT: That's right, Your Honor. But under this plan, any amended plan or any subsequent plan, if Your Honor were to deny confirmation of the current plan or any amended plan all the way into the future without this order that they would ask Your Honor to enter today, you know, ever, you know, terminating at all. The order would continue into effect during the entire pendency of this case so long as the debtors propose, you know, an order that, you know, contains the terms of the settlement.

But the key thing, Your Honor, here is that under Rule 3018(a), ordinarily a court will not allow someone to temporarily have the right to vote on a claim except under a specific plan. And here they're seeking to have that, under the current plan that's on file, any amended plan, which

presumably will be filed on Monday, and any future plan, even if that plan wouldn't be confirmed. One of the things that we had requested --

THE COURT: But they're in a separate class and the vote doesn't count if the settlement isn't approved.

MR. BRILLIANT: Your Honor --

THE COURT: And it's only in connection with a plan that has an MDL settlement -- the MDL settlement in it. I don't see why this is anything more than a provisional vote.

MR. BRILLIANT: Your Honor, we had asked that there be language in there that specifically said that if the settlement wasn't approved that the vote wouldn't count. They rejected the comment.

THE COURT: It's already there.

MR. BRILLIANT: It's not, Your Honor. The determination provisions in the order do not provide, you know, that the vote wouldn't count.

THE COURT: But the vote doesn't matter. It's in a separate class. All they're saying is reaffirming their support for the settlement. It's a technical thing so that they're not objecting to the plan. They're actually voting in favor of the plan. But it doesn't affect any calculus of anyone else's right to vote because they're in a -- they're in their own class.

MR. BRILLIANT: Your Honor --

THE COURT: I understand. If for some reason they needed an accepting impaired class to confirm the plan there might be an issue, but that's where you can designate the vote for gerrymandering purposes. But that's not what's going on here.

MR. BRILLIANT: Right. Well, Your Honor, maybe we should, you know, turn to the order.

THE COURT: Maybe we should.

MR. BRILLIANT: We don't believe that at this point in time, you know, based upon the fact that Your Honor, you know, should approve the entire motion on a preliminary basis. And we believe that notwithstanding what they're saying in their motion, that when you look at the form of the order that they're proposing, that is in fact what they are seeking to do. Your Honor, if you look at, you know, the title, you know, of the order, it's "Order preliminarily approving multi-district litigation and insurance settlement." Now, we had asked them to change it to say "Order preliminarily approving certain provisions of the multi-district litigation and insurance settlement." And they refused to do that. You know, we said well, but that -- you're saying that it's only approving certain mechanics.

THE COURT: I don't have any problem with that, except that it is being approved as to those who didn't object.

MR. BRILLIANT: Well and then maybe Your Honor can

say that it's not being approved as to those who didn't object. But at least with respect to everybody else --

THE COURT: Well --

MR. BRILLIANT: Your Honor should not be giving your --

THE COURT: Don't we all really know what's happening here? I mean, do we really have to be that specific and lengthen the terms of the order with unnecessary clauses?

MR. BRILLIANT: Your Honor, you know, I don't --

THE COURT: Particularly when you have a settlement that's heavily negotiated between about forty-five different parties?

MR. BRILLIANT: Your Honor, we believe this is substantive. You know, Mr. Butler in his presentation and in their reply, you know, said that Your Honor shouldn't approve this unless you believe that it is being capable of being approved --

THE COURT: I agree with that.

MR. BRILLIANT: And so we believe --

THE COURT: I think that's your only legitimate point here. I really do.

MR. BRILLIANT: Okay.

THE COURT: Unless you can point me to some other language that somehow prejudices you. And I've gone through it in pretty thoroughly, I think, and come to the conclusion that

you're not prejudiced. I think it is true, just as one should not authorize a disclosure statement to go out if you don't believe that there's any chance of the plan being confirmed, because the debtor's asking for certain relief. I think there is some threshold inquiry I need to make here to let this settlement be binding as to those who didn't object. And to some extent, although I think it's a pretty low inquiry, to grant the other relief provided here, which is really procedural as opposed to anything else. But certainly there has to be some threshold inquiry on my part to bind those who didn't object.

MR. BRILLIANT: Your Honor, as I said earlier, we don't believe under the Iridium decision in the Second Circuit, you know, given the fact that, you know, the settlement, you know, changes priority that it meets that minimum threshold. You know, as we had said in our limited objection, we tried to work out, you know, the form of an order that we thought would be more appropriate here. We, as Your Honor had said, you know, don't have a problem with, you know, the debtor saving money by only having, you know, by approving the class settlement and allowing the, you know, the class representative, you know, to vote rather than having to have, you know, the votes from all the parties. But we don't believe that, you know, that the order adequately reflects it. Now, I understand what Your Honor is saying. And I ask you to turn to

paragraph 1 as well.

THE COURT: Okay.

MR. BRILLIANT: And the paragraph 1, you know, starts off keeping in mind, you know, the caption of the order as I already pointed out. And it says the settlements proposed in the motion are preliminarily approved. And it's, you know, we had said to them well, no, it's not preliminarily approved, you know, the Court is not making findings of fact that it's fair and equitable that it meets the standards of 9019 and Iridium. All the Court is really doing is approving certain relief herein.

We had proposed that after the words " preliminarily approved," language be added that says "solely as to the relief granted in this order." And the debtors told us no, they won't do that, it is being preliminarily approved. Now, we said well, we can't agree that it could be preliminarily approved, because it doesn't meet the standards to be preliminarily approved. You know, they're --

THE COURT: I'd put in "to the extent provided herein." I mean, I'll hear from the debtors on that, but I don't have a problem with that.

MR. BRILLIANT: Your Honor --

THE COURT: And then carrying on with the rest of it, which does have the language about final consideration at the confirmation hearing, but I understand your argument on that

point.

MR. BRILLIANT: You know, Your Honor, with respect to paragraph 4 and paragraph 8, you know, we ask that the language here which deals with the allowance for voting purpose, we thought it should trap Rule 3018. And in the second line after the word "hereby," we proposed putting in the word "temporarily," which is the language of 3018. When you approve allowance to vote under Rule 3018(a), you were doing it temporarily. It's not on a permanent basis. And then we --

THE COURT: But doesn't the clause "solely for the purpose of" govern that? I mean, it is temporary because it's only for that purpose. It's actually clearer than saying temporarily, because the plaintiffs could say well, you know, temporary for how long?

MR. BRILLIANT: Well --

THE COURT: For five minutes? For five years? I mean, I think this is more specific and clear.

MR. BRILLIANT: You know, Your Honor, our view is that Your Honor really shouldn't approve this until November 8th when you know what the plan is, and you should only do it in connection, you know, with that plan. And if that plan's not confirmed then the authority would disappear, which is the way --

THE COURT: I think if they were going to -- and again, this is done in the same sentence. They say in the next

paragraph that that claim will be classified in its own class. If they weren't going to do that, I would agree with you. But I think as long as it's in one class, it's not adversely affecting anyone else's right to vote. And it really is parked up there as the settlement to the extent that that's going to be approved as part of the plan. I just don't see how anyone's real voting rights are affected by that.

MR. BRILLIANT: Your Honor, in paragraph 12, which is the, you know, the termination provisions here. You know, the voting rights, as we discussed earlier, you know, they continue for this plan, any amended plan, or any other plan that contemplates the stipulation. Effectively, this preliminary approval, you know, doesn't ever terminate. If you do an interim DIP order, you have a final hearing, it terminates at the end of the, you know, final hearing, whether it's approved or it's not approved.

We had proposed, and it's not too different than Your Honor's question about what is it exactly that is going to happen, you know, at the confirmation hearing that there be, you know, a third issue here and that the right to continue to have the right to vote would terminate if the relief sought in the motion is not granted at the final hearing regarding the proposed settlement. So that it's not a situation where you get to the confirmation hearing and the motion, you know, is not ruled on or it's withdrawn and this just continues to be

out there as a preliminary approval, you know, of the settlement.

It should terminate as a matter of law if it's not approved on a final basis by Your Honor, you know, at the hearing on the motion, which will occur contemporaneously to the confirmation hearing. The way they have it currently it would only terminate if either the debtors or the class action plaintiffs were to terminate it as provided under these, you know, here in the paragraph. And we didn't think that that was appropriate. If it's a preliminary order with certain procedural relief, it should be limited in scope to, you know, our view, you know, one plan and to a limited period of time.

THE COURT: You don't understand that it says "or is otherwise terminated pursuant to applicable law as determined by a court of competent jurisdiction."

MR. BRILLIANT: So, but, Your Honor, you know, no one should have to file a motion to terminate this. If it's not approved on a final basis, it should be terminated.

THE COURT: I really think you're splitting hairs here. As a practical matter, you can conceive of situations where a court would say something needs to be adjusted here to make it work. And that something may not necessarily be in the settlement. It may be somewhere in the plan. And someone else may be willing enough, because their economic stake in having the plan be confirmed, that they'll make the adjustment, not

the settling parties. That's conceivable.

On the other hand, when push comes to shove that's not going to happen, it's going to be pretty easy, I think, for the parties to decide this is a waste of time. And if they can't decide it then the Court will say the stipulation's over. But I don't see why you need to make it as brittle as you want to make it. I think there needs to be some flexibility here because, as everyone acknowledges, this is built into an overall set of transactions that the debtor wants to have confirmed as part of its plan.

But I think no one would dispute that before a plan gets confirmed there may well be some adjustment to that overall set of transactions. I mean, this isn't saying I think, what you're afraid of, which is that it's locked in forever at the debtors and the settling party's discretion. It has termination by a court of competent jurisdiction and everyone's subject to the requirements of the Bankruptcy Code as well as the requirements that the district court has to apply when it does final approval.

MR. BRILLIANT: Your Honor, I think, you know --

THE COURT: I certainly wouldn't want to put a harness around the district court and say that, you know, one element of the settlement, which is this voting right, terminates if the district court disapproves the settlement. Because, as we all know, sometimes when there's a legitimate

objection to a settlement, people scratch their heads and say well, you know, maybe we can adjust things to deal with that. And I just think that that's all the -- I can understand if that's the rational for the debtors opposing your change. And again, if there's some ulterior purpose, that can be dealt with under the appropriate circumstances.

MR. BRILLIANT: I guess, Your Honor, you know, in sum, you know, given the, you know, the extraordinary relief here that, you know, they wanted on an interim basis, preliminary basis against, you know, parties here that we believe aren't in violation at all, we don't think that any order should be entered to the extent that Your Honor does decide that some kind of preliminary order is appropriate. We would like, at a minimum, that it be clarified to provide that the relief that's being granted is only with respect to the specific procedural terms here and that it's not being approved on a preliminary basis, you know, as being fair and equitable, meeting the 9019 and the Iridium standards. We just don't believe that they have met that, can meet that, will be able to meet that, whether it be today or at the final hearing and we would not want them to be able to use this to, you know, bootstrap any arguments they would have at a final hearing.

THE COURT: Okay.

MR. BUTLER: Your Honor, two preliminary matters in responding. First, Mr. Brilliant in his comments led off, in

addition to the Iridium argument -- led off with the fact that he believed that this was a concealed attempt under 3018(a) to have these claims allowed as members of the general unsecured claims class and to vote general unsecured claims. I think Your Honor disposed of that when you looked at the actual language in paragraph 4. I mean, the words were carefully chosen here and carefully negotiated. And the order, if Your Honor approves this -- the securities' allowed claim in interest could only be voted in a separate class. It's an imperative the way it's drafted: "shall be in a separate class". There is no effort here to have this be a disguised 3018(a) determination of moving the MDL plaintiffs or the lead plaintiffs into the general unsecured class.

The second point I just wanted to make so we do have the basis of the record here: we did provide exhibits for this particular hearing which are simply the stipulations as Exhibits 1 through 3; the Exhibit 4 with the change of the bifurcation change of procedure outline that went to the parties including Mr. Brilliant. Exhibit 5 and 6 are the district court preliminary approvals, and I do think it's instructive for Your Honor to be able to look at Exhibit 5, the preliminary approval that Judge Rosen gave. He called his a preliminary approval order too and it's quite clear that he is holding his full fairness hearing and merits hearing in mid-November. And then, finally, Exhibits 7 through 13 are the

motions, the objections filed, our reply, the former proposed order and the blacklines and service matters. And so we do have those on the record. I'd like to move Exhibits 1 through 13 into evidence.

THE COURT: Okay. Does anyone have any objection to the admission of those exhibits?

MR. BRILLIANT: No objection, Your Honor.

(Stipulations was hereby received as Debtor's Exhibit 1 - 3 for identification, as of this date.)

(Bifurcation change of procedure outline was hereby received as Debtor's Exhibit 4 for identification, as of this date.)

(District court preliminary approvals was hereby received as Debtor's Exhibit 5 - 6 for identification, as of this date.)

(Motions, objections, blacklines, service matters was hereby received as Debtor's Exhibit 7 - 13 for identification, as of this date.)

THE COURT: Okay. They'll be admitted.

MR. BUTLER: Your Honor, with respect to the Iridium matter and to the Second Circuit's announcement on that, I think the Second Circuit was careful in their wording. I concur with Mr. Brilliant's statements that the priority scheme of the Bankruptcy Code is deemed by the Second Circuit as being a most important factor or the most important factor generally but the Second Circuit went to great length to not adopt the per se rule -- I think it was at the Fifth Circuit at the time

in the opinion -- and this was in the context of a settlement as opposed to being decided at the time of the plan of confirmation hearing. And ultimately, in discussing this with the creditors committee, we believed we addressed the Iridium issue in part by having this considered in the context of the confirmation hearing process. Certainly with Your Honor's amendments, we understood that.

And we believe that if Your Honor examines the stipulations, examines the plan that is on file, we believe that that plan is capable of confirmation and ultimately, when we look at the Iridium case, I certainly don't see the Iridium case in any respect as a bar on this Court or providing this Court with a bar to making the determination now that this is capable of approval at the merits hearing in connection with the confirmation hearing here and therefore, Your Honor, we believe that this preliminary relief ought to be granted. We think it's been carefully crafted with our statutory committees and other parties in interest other than Mr. Brilliant's group to try to achieve that and we think this is an extremely important element of the overall fabric of settlements here.

This is a case which has just a multitude of settlements in it. It is a real challenge for the debtors to try to maintain all of those settlements as people's economic interests change and claims trade and other matters occur here and it's not always entirely clear to the debtors positions

people take and why they take them but we believe there is, as a matter of law, nothing in the Second Circuit Iridium decision that would prevent this Court from making the determinations today and we believe that, based on the evidentiary before Your Honor as it relates to the actual substance of the settlements and what they're trying to accomplish and how they're being processed, that you can make the same kind of preliminary approval in the bankruptcy context that Judge Rosen was able to make in the district court securities context, which is a determination that it is appropriate to proceed with the procedural relief set forth in this order and that Your Honor will consider, at the confirmation hearing, any valid objections raised by any of the parties in interest who retained their rights to object, which includes Mr. Brilliant's clients.

THE COURT: Okay. All right. I have before me a modified motion by the debtors seeking certain relief now in connection with their proposed settlement with class plaintiffs in the MDL litigation pending in Michigan embodied in three stipulations: the securities stipulation, the ERISA stipulation and the insurance stipulation. Originally, the debtors sought approval of this settlement under Rule 9019 and Section 363(b) of the Bankruptcy Code gave parties in interest a deadline to object to the merits of the settlement and scheduled a hearing thereon. Certain parties in interest

sought an extension of the deadline and/or were granted an extension of the deadline to object and had persuaded the debtors that, as to those entities who did receive an extension of the deadline to object, that that deadline would be further extended to the same date as the date for objecting to confirmation of the debtors' plan of reorganization.

It's contemplated that that plan would include as a condition or be premised upon, among other things, the implementation of the MDL settlement. And the objecting parties or the potentially objecting parties persuaded the debtor that their objections, if any, should be heard in the context of the particular plan that would be premised in part upon the settlement. Among other things, that makes sense because the Bankruptcy Code permits parties in their vote on a plan as a class to express their preference for altering the priority scheme otherwise set forth in the Bankruptcy Code and an element of this settlement, it is argued and it may well be the case, does just that.

So, as far as the relief that's being sought today, the debtors have been careful to make it clear throughout, and the record certainly should be clear after this morning's hearing, that as to the potentially objecting parties, and they are listed in the proposed order, their rights to object to the proposed settlement and of course their rights to object to the proposed plan, too, are fully preserved.

Today, therefore, the debtors are seeking approval of the settlement in the following respects: first, provisional certification of the securities and ERISA classes for purposes of voting on a plan that would incorporate the MDL settlement for solely those voting purposes, allowance solely for those voting purposes of the claims of those two classes as set forth in the MDL settlement or the proposed settlement and that the settlement be binding on those who did not object to it.

As a lesser matter, the Court is also being asked to modify the automatic stay or the conditions of previous modifications of the automatic stay in the previously agreed order regarding discovery that would lift the automatic stay with respect to documents previously produced by the debtors to the securities' lead plaintiffs under that agreed order so long as the settlement has not been terminated for use as contemplated in the settlement.

The modified relief that the debtors have sought is unopposed except by an ad hoc group of plaintiffs who contend that they hold an aggregate of not less than 420 million dollars, an aggregate principal amount of senior notes. They had previously objected to the settlement on its merits contending that it should not be approved in that it would treat the allowed claims of the settling classes pari passu with the allowed claims of other unsecured creditors notwithstanding Section 510(b) of the Bankruptcy Code.

Obviously, that objection is fully preserved as I said earlier but this ad hoc group represented by Goodwin Procter has taken the position that the entry of the order that the debtors are currently seeking, notwithstanding the intention as set forth on the record to fully preserve its objection, would prejudice the objection.

I, as perhaps indicated by my remarks during oral argument, do not accept that logic. I believe that as amended on the record, it's crystal clear that the ad hoc group's rights to object to the settlement and to any plan premised upon in part the settlement are fully preserved as are the rights of the other potentially objecting parties.

As I noted, the only potential risk of prejudice to the objecting group as well as the potential objecting parties could have been in the allowance for voting purposes of the claims of the class representatives. However, given that those claims will be set forth in a separate class, they would in no way dilute the votes of the Goodwin Procter group or any other potentially objecting party or any party who wished to vote against the plan, to the extent that the separate classes consisting of the ERISA class representative and the securities class representative would be the only accepting classes in connection with the plan. I would of course at that point consider whether those classes would count and, as a practical matter for reasons I'll get into in a moment, the issue would

in all likelihood be moved because it would reflect a negative vote by every other class on the plan, which would have, in my mind, a dramatically adverse effect on my likelihood of approving the settlement.

But that, as the parties I think all recognize, is a, at this point, highly hypothetical question and illustrates why it was a very good idea to permit the objecting parties to have an extension of their time to object so that everyone can see the actual result of the vote on the plan and determine whether to make their objection in light of that vote.

So I do not see a basis for the Goodwin Procter group to sustain an objection to the relief that's being sought today. I do have to consider the merits of the settlement in some respect, I believe, today, however, in that the debtors are seeking to preclude those who did not object or get a timely extension of their right to object to the settlement.

And secondly, I need to consider the settlement as did Judge Rosen in this limited extent to determine whether it is appropriate at this point to certify a class for settlement purposes and whether the settlement is sufficient to warrant the allowance of the class vote for voting purposes. Let me deal with that point first.

I can certainly conceive of circumstances pursuant to which the requisite majorities in number and amount of unsecured creditors would vote in favor of a plan premised

upon, among other things, this settlement. The temporary allowance for voting purposes of the class representatives' votes pursuant to this proposed order would facilitate confirmation of a plan that was otherwise approved by the requisite majorities of unsecured creditors. As I said before, I believe it would have very little if no effect on confirmation of a plan if the vote was a no-vote by the requisite majorities of the unsecured creditors in the unsecured creditor class, particularly if that was coupled with a cogent objection to the settlement by the potentially objecting parties.

So it certainly seems to me advisable to temporarily allow the votes as provided in the proposed order to see if that process will play out.

As far as approving the settlement over the nonobjection of the nonobjecting parties and recognizing that, as set forth in the order this approval is only as to them and not to the potentially objecting parties or to the Goodwin Procter group, I conclude that the settlement can indeed be approved as to the nonobjecting parties in light of and first and foremost because of the fact that after due notice they did not object. In assessing a proposed settlement under Bankruptcy Rule 9019(a), the Court's review reflects a tension between, on the one hand, that in reviewing the settlement agreement the Court is not required to conduct a mini-trial of

the compromised issues and claims, and on the other hand that the Court may not simply rubber stamp the recommendations of the trustee or debtor in possession but instead must make an independent assessment of the wisdom of the proposed compromise.

The Second Circuit has identified factors that should guide the Court's inquiry in resolving that tension that are based upon the factors set forth by the Supreme Court in the TMT Trailer Ferry case, 390 U.S. 414, 424-425 (1968). I am of course also guided by the Second Circuit's recent opinion in In re Iridium Operating LLC, 478 F.3d 452 (2d Cir. 2007) in which, where a settlement was opposed, the Second Circuit said that whether the settlement is fair and equitable is the primary consideration for the court if in fact the settlement does violate the fair and equitable rule as a term of art under the Bankruptcy Code, that is, would alter the absolute priority rule set forth in the Code.

Two things in this context, I think, are worth noting about the Iridium opinion. First, as Mr. Butler noted, the Second Circuit was careful to say that while satisfaction of the fair and equitable test is a primary, if not the primary, matter upon which the court should focus, it is not the only consideration and indeed the fact that a settlement violates the fair and equitable rule does not necessarily doom it upon a proper showing.

Second and equally important, the Iridium settlement was opposed and it has long been recognized that particularly where there is an arm's-length settlement, and it does appear to me that this was an arm's-length negotiation following an extensive mediation process in the district court, the Court should pay great attention to the paramount interests of creditors and in proper deference to their reasonable views. Indeed, if creditors have been properly noticed and apprised of the circumstances surrounding the settlement, the creditors' failure to object indicates an informed judgment in support of the settlement. See In re Remsen Partners, Ltd., 294 B.R. 557, 567 (Bankr. S.D.N.Y. 2003).

On that basis, I conclude that those who failed to object are properly bound by this settlement, which was explained extremely thoroughly in the motion. It may be also at the end of the day in light of the class vote that the same or similar considerations will apply in respect of any other objection, which is, as I said before where I believe, particularly given the protection set forth in this order, the matter can proceed to the next stage.

So consequently, I'll grant the modified relief that was sought.

MR. FOX: Your Honor, can we clarify one point, please?

THE COURT: Sure.

MR. FOX: Your Honor, Wilmington Trust Company as indentured trustee represents the interests of all bondholders in connection with this matter so when Your Honor says that you're approving the settlement as to parties who have not objected, I want it to be clear that, to the extent Wilmington Trust files an objection and that objection is sustained, that that applies to all bondholders.

THE COURT: I understand your concern. You can voice -- the bondholders under the indenture give Wilmington Trust the right, just as they do to file proofs of claim to make an objection on their behalf.

MR. FOX: Thank you, Your Honor.

THE COURT: I do want to say, because as you can tell, I take the views of creditors very seriously, that in this context in particular, I think the Goodwin Procter group would be well advised -- and this can be done pursuant to proper procedures -- to clear up any issue as to whether, if they are going to pursue their objection in the future, their interests truly are in the class that they say they're in and not affected by other interests elsewhere, the type of concern I don't really have with regard to an official creditors committee or an indentured trustee.

As far as the order is concerned, there are a couple of provisions in this that I put a question mark next to and I want to discuss them with you briefly. In a couple of places,

and I know this is set forth in the settlement agreement and I know it's also set forth in Judge Rosen's order, I believe, too, which is fine, it states that the lead plaintiffs and the ERISA lead plaintiffs shall vote in favor of the plan. I'm a little uncomfortable with that. They've agreed to do so. The settlement's only effective if they do so but I'm uncomfortable in directing them to do so and I would prefer it to say "have agreed to cast any and all votes" as opposed to "shall cast any and all votes".

MR. BUTLER: (Indiscernible) I'd hate to do otherwise and I think we would surely take the position, and Mr. Etkin's (ph.) present in the courtroom, that if they didn't, they'd be violating the settlement --

THE COURT: Well, they would be and I think they'd also be violating Judge Rosen's order but for a bankruptcy court to direct someone to vote is somewhat problematic.

MR. BUTLER: I don't have a problem with that, Your Honor.

MR. ETKIN: Your Honor, I would only add the caveat that that agreement is premised on the plan being consistent within the settlement agreement.

THE COURT: Right. It has to have the settlement in it.

MR. ETKIN: Right.

THE COURT: Right.

MR. ETKIN: So with that caveat, yes. That's what we agreed to.

THE COURT: Okay.

MR. BUTLER: I think, Your Honor, we were actually -- the purpose of that and I'm perfectly acceptable -- understand the change. The purpose of that was in some respects to, you know, to insulate the lead plaintiffs. I mean, they're acting pursuant to a district court order and pursuant to an agreement --

THE COURT: Right.

MR. BUTLER: -- and we had thought that we should carry that forward but I understand the distinction.

THE COURT: Okay. So where that comes up, and it comes up in a few places, I've deleted it or said that they have agreed to do so as opposed to -- I've also put in, where their claims are allowed for voting purposes, that they're granted an allowed claim or in the case of ERISA class an allowed interest in these cases and I've added the phrase "under the terms of the ERISA stipulation or under the terms of the other stipulation" which makes it clear it's all in connection with the settlement.

MR. BUTLER: Yes, Your Honor.

THE COURT: Okay. All right. So I'll make those changes to the order and it will get entered.

MR. BUTLER: Thank you, Your Honor.

MR. BRILLIANT: Your Honor, Allan Brilliant on behalf of the, you know, five, you know, those that I had mentioned earlier. In the colloquy we had at the podium, you had also indicated you were going to make a change to paragraph --

MR. COURT: Oh, that's in there. Yeah, that's in there.

MR. BRILLIANT: Okay. Thank you, Your Honor.

MR. COURT: The one that says "to the extent provided herein"?

MR. BRILLIANT: Yes, Your Honor.

THE COURT: Yeah. Okay.

MR. BUTLER: And on number 10, Your Honor?

THE COURT: Yes.

MR. BUTLER: Your Honor, the tenth matter on the omnibus agenda today is the twenty-first omnibus claims objection at docket number 9535. Your Honor, in this omnibus objection, there were 209 proofs of claim that were dealt with on the objection and of those 209 claims, we received responses covering sixty-one of those proofs of claim.

With respect to the sixty-one claims covered by responses, one of the respondents -- International Rectifier, proof of claim number 13788 -- consented to the relief requested of the debtors so that would -- if you subtract the sixty responses, that would bring you down to 149 proofs of claim that we'll actually seek relief with today.

Reconciling another way, there were sixty-one responses covered by the -- or sixty-one proofs of claim covered by the responses; one settled, as I just described. We also withdrew an objection and that would be with respect to the CTS Corporation proof of claim at claim number 11256. That was due to reconciliation there that we're going to correct and we'll deal with that in a subsequent objection moving forward but we did need to correct the reconciliation error that was pointed out to us.

So, Your Honor, in today's hearing we'll actually ask Your Honor in the order and our reply and the charts we provide consistent with these omnibus objections -- we'll move forward fifty-nine proofs of claim asserting liquidated damages or approximately sixty-three million dollars to the claims track and we'll deal with those in the regular custom in these cases in the claims track.

At today's hearing, we'd ask Your Honor to grant relief with respect to 149 claims that assert liquidated damages for approximately 34.4 million dollars, specifically, Your Honor, we'd ask the Court to expunge 36 of these claims with an asserted claim amount of approximately 21.1 million, and with respect to the remaining 113 claims we'd assert approximately 13.3 million dollars.

We are seeking various modifications including identifying the debtor against whom the proof of claim is

asserted, the class, the amount of the claim, reducing the amounts of the claim and so forth. There is approximately an aggregate reduction in those claims of about 1.9 million dollars, reducing them in the aggregate from 13.3 million to 11.4 million.

As Your Honor has inquired in prior hearings, we do do the particularized notices that Your Honor wants in these cases with respect to these things so that an objector understands if their claim is being objected to and if Your Honor grants the relief today, we will send out with the order a particularized notice to the objectors whose claims are affected by the relief being granted.

THE COURT: Okay. And I think you said this but I just want to make sure, you incorporated into this order the agreements that you reached with the few people who you've agreed with?

MR. BUTLER: Yes, Your Honor.

THE COURT: Okay. All right. Does anyone have anything to say on the omnibus objection? All right. I will grant the omnibus objection as modified. As modified, it covers claims that have been settled following the notice of objection and also claims where the claimant has not opposed the debtors' objection after individual notice. Based on my review of the objection, the objection was sufficient to shift the burden to the claimant to object to support his claim and

where they have not done so, their claim's properly either disallowed or modified as provided in the objection.

MR. BUTLER: Thank you, Your Honor. Your Honor, the next matter on the agenda, matter number 11, is the DASHI intercompany transfer motion. We filed this at docket number 10484. There was a preliminary objection from Wilmington Trust who filed a document number 10564 which has been resolved and there have been comments to the relief requested by both our DIP lenders and by the PBGC which have been accommodated in a form of proposed modified order.

Your Honor, in connection with this motion, what we are seeking from the Court today is a confirmation of DASHI's authority to consummate an intercompany transfer to DAS, LLC. DASHI is in the process of accumulating cash balances from nondebtors in the company's global corporate structure in an amount that's expected to be up to 650 million dollars and upon accumulation of those funds or after that process is completed, DASHI intends to effectuate a transfer of those funds under the cash management order entered in these cases to DAS, LLC.

We believe that this is in fact, and have contended throughout these cases, this is from the debtor's view nothing more than an ordinary course transaction for us. We move cash balances around our entire system on a regular basis; this one is a larger one. It's a larger one because it's no surprise, I think, to any of the parties in this case who've been following

the case, that the debtors' North American business operations are a consumer of cash and the global business operations have been generally a generator of cash.

And, ultimately, we are in a position now where we have moved for the first time recently in recent months in being a constant net borrower under the DIP Revolver, you know, within the debtor entities and generating interest expense that could be saved simply by, in fact, repaying that with cash that the company has. The company has a very significant amount of cash in its global -- globally and on a consolidated basis and is in a position, as it has been throughout these cases, to manage its business in the ordinary course of its business, you know, in an area that the company -- and has owned the company, continues to believe is quite comfortable in terms of the cash that we have and the ability to fund our operations globally.

The company chose to make this transfer to respect the terms of the cash management order that Your Honor entered. We have been guided throughout these cases by the colloquy that Your Honor had with us at the time of the first day hearing and as the orders were amended after the creditors committee was appointed in those discussions, in which Your Honor made clear to us that you expected that we would -- the company would exercise a reasonable business judgment from the perspective of each of the various entities involved in these transactions to make sure that these transactions made sense and were

reasonable from the various perspectives of the various entities and that any transfer like these is subject to a lien junior to the DIP lenders but still subject to a lien or a priority.

And therefore we chose to move forward with this. We shared this information with our statutory committees. Our committees, in particular the creditors committee, asked us to bring this on for motion. We did so notwithstanding the fact we believe it's completely authorized by the cash management order but, as Your Honor knows, when you're in the middle of plan time and lots of people's interests are being subject to adjustment and compromise, it's a period in any Chapter 11 case, certainly in a large Chapter 11 case, where it is, as I sometimes think, difficult to do much of anything in the ordinary course of business even if it is.

So we brought this motion on. We have had extensive discussions with the parties. I am pleased to report, Your Honor, that it is no longer contested. We dealt with the Pension Benefit Guaranty Corporation issue which is, you know, in some respects, a fascinating issue as a matter from a legal perspective but an issue frankly the debtors didn't want to have to actually deal with here. And while I would, you know, in a classroom or in some other context love to debate the extraterritorial rights of the PBGC, the fact of the matter is Delphi did not want and does not want to take on that burden,

particularly given the fact that we have been quite appreciative of the relationship that we've developed with the PBGC during the course of these cases which has led to, among other things, the waivers that we have received, the preservation, the ability to actually preserve the pensions in this case and we have worked cooperatively with them both in their individual capacity and in their membership in the creditors committee.

And so what we have chosen to do and what the order reflects is a conditional adequate protection grant that basically gives them a grant of adequate protection and a lien junior to the liens of the DIP lenders that will become effective, and this was the DIP lenders' comment late last night that the PBGC has agreed to that will become effective upon the transfer of the accumulative cash described in paragraph 4 of the order, of the proposed order, and it is conditional in the sense that if we ever have to argue it, we can in fact -- if it ever becomes necessary, we can have the debate and the proceeding in this Court and ask Your Honor to address the extraterritorial and other issues. It is an argument and a debate that I firmly believe we should never have to have and hope we never will.

So that we were appreciative that and we respected, I must tell you, the view that this was, and at least we would call it -- I'm not sure the PBGC would call it this -- but we

believe this to be a program or policy issue, an agency issue for the PBGC where they needed to preserve this issue. We understood that and were pleased that the agreement in the revised proposed order does that and provides them with the conditional adequate protection to which they believe they're entitled and to which we believe no one is prejudiced based on the specific reservations of rights and the conditionality of that. We're also pleased that our DIP lenders are satisfied -- our DIP agent is satisfied with the proposal as modified with the language I've just described on the record.

With respect to Wilmington Trust in its capacity as indentured trustee, this issue was also resolved both by an agreement between Wilmington and the debtors to provide Wilmington with information independently of the creditors committee. It'll be the same information we're giving the creditors committee but Wilmington Trust wanted to receive it in its capacity as indentured trustee and to have -- and we provided, agreed to a schedule of the information we would provide them and the basis on which that would be pursued and we've agreed that that need not be made a matter of public record but it's satisfactory to Wilmington and it's satisfactory to the debtors. It is subject to the protective order and other agreements we have with them and will be deemed highly confidential in terms of that transaction but it was -- we do appreciate Wilmington Trust's and Mr. Fox's work with us

to try to make sure that that information exchange works to everyone's mutual satisfaction.

We also agreed to a provision in the order which we have dealt with in other situations that indicates that neither Wilmington nor we will use the granting of this relief adversely as precedent against the other should we have to argue about this in the future. And so we have had, I think, that kind of understanding with them in other situations and we're prepared to preserve that here and therefore have agreed to do that as well.

There are, Your Honor, a brief number of exhibits in connection with this particular transaction that we would indicate, ask to have considered by the Court. Let me briefly summarize those. Exhibits 1 through 4 are court documents involving the motion, the objections and withdrawal of the objection of Wilmington Trust and our reply.

We do have a declaration of Mr. Sheehan which has been marked highly confidential as Exhibit 5.

Exhibits 6 through 8 are the motions and the orders dealing with the cash management system that we've been operating under during the pendency of these cases as well as the DIP refinancing order that provides the senior lien issues we've needed to respect in connection with the conditional grant of adequate protection.

We have documented, designated for these purposes

some business records of ours, including the debtors' five-year consolidated business plan which was filed as Appendix C to the disclosure statement at docket number 9264. That's Exhibit 9.

Exhibit 10 is the liquidation analysis filed as Appendix E to the disclosure statement at docket number 9264.

We have made a presentation regarding this matter to both statutory committees on October 17, 2007, and this is marked highly confidential as Exhibit 11.

We provided Your Honor draft minutes of Delphi Corporation's board of directors to indicate the manner in which this has been reviewed from a corporate governance perspective and those are marked highly confidential. Those are Exhibits 12 and 13 for the September 5th and 10th meetings.

And then we have provided information in Exhibit 14 regarding the amount of new business booked at the DAS, LLC entity level.

A proposed order at Exhibit 15, which includes all of the agreements reached now with Wilmington Trust, the PBGC and our DIP lenders.

And Exhibit 16 is the affidavit of service.

Exhibit 17 is the Wilmington Trust -- is the protective order, I should say, which we will be using for purposes of exchanging information.

And Exhibit 18 is the letter agreement between Wilmington Trust and DASHI which we've marked -- and the

company regarding any of the information exchanged -- we've marked highly confidential but we wanted the Court to be able to review it if it chose to in terms of the agreements between the parties.

THE COURT: Okay.

MR. BUTLER: Your Honor, we've moved the addition of Exhibits 1 through 18.

THE COURT: Does anyone have an objection to the admission of those exhibits?

MR. BROUDE: Your Honor, just briefly on items 9 and 10, the two exhibits, the disclosure statement -- I assume those are being entered for demonstrative purposes only, not for the truth of the matters therein?

MR. BUTLER: Well, they're being submitted as the debtors' view of those issues.

MR. BROUDE: Okay.

MR. BUTLER: I mean, they're not binding on the creditors committee --

THE COURT: Exactly right.

MR. BUTLER: -- or on any other party.

THE COURT: All right.

MR. FOX: Edward Fox, Your Honor, for Wilmington Trust. I have no objection but in view of the fact that the order does not constitute precedent for any further matters, I reserve our rights with respect to cross-examination of Mr.

Sheehan or any other challenge to the exhibits in future matters.

(Motion, objections, withdrawal of Wilmington Trust objections, debtor reply was hereby received as Debtor's Exhibit 1 - 4 for identification, as of this date.)

((Confidential) Declaration of Mr. Sheehan was hereby received as Debtor's Exhibit 5 for identification, as of this date.)

(Motions and orders re: cash management system, DIP refinancing order was hereby received as Debtor's Exhibit 6-8 for identification, as of this date.)

(Five-year business plan was hereby received as Debtor's Exhibit 9 for identification, as of this date.)

(Liquidation analysis was hereby received as Debtor's Exhibit 10 for identification, as of this date.)

((Confidential) Presentation re: liquidation analysis was hereby received as Debtor's Exhibit 11 for identification, as of this date.)

((Confidential) Draft minutes of Delphi 9/5 and 9/10 board of directors meetings was hereby received as Debtor's Exhibit 12 - 13 for identification, as of this date.)

(Info re: new business booked with DAS entity level was hereby received as Debtor's Exhibit 14 for identification, as of this date.)

(Proposed order was hereby received as Debtor's Exhibit 15 for identification, as of this date.)

(Affidavit of service was hereby received as Debtor's Exhibit 16 for identification, as of this date.)
(Protective order was hereby received as Debtor's Exhibit 17 for identification, as of this date.)
((Confidential) Letter agreement between Wilmington Trust and DASHI was hereby received as Debtor's Exhibit 18 for identification, as of this date.)

MR. COURT: Okay. I'm sure Mr. Sheehan is happy to hear that and I take it no one else wants to cross-examine Mr. Sheehan today? All right. I'll admit those exhibits for the purposes that they've been offered for.

MR. BUTLER: Your Honor, I think with that evidentiary record with Mr. Sheehan's declaration in the record now and our presentation and the proposed order, we submit the matter, Your Honor, for consideration.

THE COURT: Okay. Does anyone have anything to say on this motion? Is there a problem in putting, in addition to "valid, perfected and enforceable", putting an "and nonavoidable" or "nonavoidable" in dealing with the liens?

MR. BUTLER: I don't think there is an issue from our perspective, Your Honor.

THE COURT: Or "claims"? Okay. Again, the PGBC's adequate protection replacement lien is only to the extent that it is already in possession of a valid, perfected and enforceable lien on such assets and I want to insert the phrase

"and nonavoidable" in a couple places and I think that's implicit in "enforceable" but I wanted to make sure that was the case. Okay. So that'll be in the order.

MR. BUTLER: And counsel for the PBGC has indicated that's fine with them.

MR. SPEAKER: That's fine with us.

THE COURT: Okay. Great. Thank you. Okay, so that will get entered today.

MR. BUTLER: Thank you, Your Honor. Your Honor, the remaining matters on the agenda deal with the fifth fee applications of professionals. These are items number 12 through 50 on the agenda. A total of thirty-nine professionals have timely submitted applications with respect to the fifth fee interim application period which ended on May 31st of this year.

All these professionals were retained in these cases by the debtors, the unsecured creditors committee, the equity committee and the joint fee review committee. There is one professional firm that has been retained in these cases and that has not yet filed fee applications. We wanted the court to be aware the Crowell & Moring, or antitrust counsel to the debtors, were retained on March 9th, 2006 at docket number 2773. They were hired on a contingency fee basis. They've not submitted any invoices to the debtors for payment at this time.

I'm pleased to report, Your Honor, that there are no

objections that have been filed to any of the interim fee applications or before the Court today, but that should not in any way suggest that there has not been a thorough review of the applications before the Court. In fact, the fee review committee has met on a number of occasions with each other and have been through working with their -- the fee examiner or fee auditor that is hired for them, and then they have been in contact with all of the various applicants about their views. They have worked out a consensual agreement regarding their views with each of the professionals, which is reflected in the proposed order that's been presented to Your Honor. I would indicate Mr. Sherbin, who is chairman of the fee committee, is here in Court today as is Mr. Sheehan who is present and we have been advised that the other members of the committee also join in these requests.

The one point I would just indicate is there is a recommendation here that the holdback for the fifth fee period, which goes back to the December period of last year -- excuse me, the February through May period of this year -- that it be released in connection with Your Honor's consideration of this. That's been recommended by the fee committee if on this record -- to say it is not objected to by the U.S. Trustee.

THE COURT: Okay.

MR. BUTLER: Which is, it has been reviewed by them and there is no objection to that relief that has been sought.

Your Honor, the proposed order sets forth the, in separate columns, the date of each fee application, the total amounts requested, the amounts -- in each case the amount recommended by the fee committee. Obviously there are blanks for the columns for the Court's determination and the same is true for charges and disbursements, both requested and sought by the fee committee. And then there's a column of the total voluntary reductions by the applicants. I would indicate that there are in excess of 2.2 million dollars worth of voluntary accommodations extended by the thirty-nine fee applicants, either voluntarily in their applications or on a voluntary basis after discussion with the fee committee and getting the input from the fee committee and the fee committee's auditor with respect to each individual fifth fee application.

With that in mind, Your Honor, Mr. Sherbin is here and available to the Court to answer any questions on behalf of the fee committee and I'm certainly available, both individually for Skadden and also as counsel to the debtors, to answer any questions you may have about these applications.

THE COURT: Okay. Does anyone have anything to say on any of the fee applications?

MR. VELEZ-RIVERA: I'll address the Court from here, Your Honor. Andrew Velez-Rivera for the United States Trustee. This lender did advise me that indeed we adopt the view of the fee committee and we have no objection to the releases and the

holdback which are reflected in our point of view.

THE COURT: Okay. Thank you.

MR. VELEZ-RIVERA: Thank you.

THE COURT: All right. When I suggested that a fee committee be set up, my hope was that if it was, as I believe it is, composed of sophisticated businesspeople who are used to dealing with professionals' bills, that it would provide the type of review that's necessary in a case of this size. From what I see, that's the case. Obviously if parties in interest, including the professionals, feel that for some reason it's not working as contemplated, i.e., fairly but professionally, they should let me know. But I meant to when this was set up, and will, rely on those -- on the judgment of those businesspeople as well as, of course, on the U.S. Trustee in their review of the bills. So I will approve the interim applications as sought and as unopposed by the parties and also believe that for this last period the twenty percent holdback can be awarded, subject of course to the continued process for submitting bills and the holdback associated with those on a going forward basis.

MR. BUTLER: Thank you, Your Honor. Your Honor, with respect to the go forward basis, the sixth fee application period did pass in September. It was completed in September. Those applications will be filed at the end of November and the company intends -- and we've talked briefly to Mr. Sherbin

about this -- that those would go on the same sort of number of months, you know, down the line. Those would come onto the February omnibus hearing, which would give them the same amount of time for the fee committee to continue to review that.

It is, I think, likely going to be the recommendation of the company that the seventh fee application period which covers the period through the end of January and into February, that that period, which would be October, November, December and January -- that even though the confirmation being in mid-January, that if we're able to maintain that schedule we will most likely in connection with the hearing on the sixth fee application ask Your Honor to not require the filing of fee applications for the seventh period on an interim basis but instead maintain those holdbacks and maintain those applications as part of the final fee application process, so that it would save the time and expense for the estate of having all these professionals prepare yet another interim fee application basis because at some point, we need to get to a final fee application hearing and we respect that both you and we believe the U.S. Trustee is going to want a holdback maintained for the final fee hearing.

THE COURT: Okay.

MR. BUTLER: In some amount.

THE COURT: All right.

MR. BUTLER: And so we're -- that's sort of what

we're planning to do depending on the timetable of emergence and how that coincides with the fee application periods but there will be at least one more interim fee hearing which will likely be in February of next year.

THE COURT: Okay. I know that some professionals may have some pressure from their partners to get as much in by year-end but I think the interim procedures strike an appropriate balance on that, so what you've laid out sounds fine to me.

MR. BUTLER: Thank you, Your Honor. Your Honor, that completes the matters on the omnibus agenda.

THE COURT: Okay. Thank you.

MR. BUTLER: Thank you very much.

(Proceedings concluded at 12:07 p.m.)

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C E R T I F I C A T I O N

I, Sharona Shapiro, court approved transcriber, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter.

Sharona Shapiro
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_____ **October 29, 2007**

Signature of Transcriber **Date**

Sharona Shapiro

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